

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

MICHAEL LANCE
2900 Connecticut Avenue, N.W.
Apt. 346
Washington, D.C. 20008

Plaintiff

v.

Civil Action No:

NATIONAL RAILROAD PASSENGER
CORPORATION
60 Massachusetts Avenue, N.E.
Washington, D.C. 20002

Defendant

* * * * *

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. § 1441(a) and 28 U.S.C. § 1349, Defendant National Railroad Passenger Corporation (hereinafter "Defendant" or "Amtrak"), by its undersigned counsel, hereby notices the removal of this action to the United States District Court for the District of Maryland (Southern Division). As grounds for removal, Defendant states:

1. Plaintiff Michael Lance (hereinafter "Plaintiff" or "Lance") commenced this action on October 23, 2006 by filing a Complaint in the Circuit Court for Prince George's County, Maryland. Plaintiff's Complaint was assigned Case No. CAL 06-22784 (hereinafter the "State Court Action"). The Complaint seeks \$450,000.00 in compensatory damages.

2. Defendant Amtrak was served with the Complaint on October 27, 2006. Nothing further has occurred in the State Court Action.

3. Pursuant to 28 U.S.C. § 1349, “The district courts shall not have jurisdiction of any civil action by or against any corporation upon the ground that it was incorporated by or under an Act of Congress, unless the United States is the owner of more than one-half of its capital stock.” Because a majority of the capital stock of Amtrak is owned by the United States¹, the federal courts have subject matter jurisdiction over any action involving Amtrak, assuming all procedural requirements of 28 U.S.C. 1441(a) have been followed. *Hollus v. AMTRAK Northeast Corridor*, 937 F.Supp. 1110 (D.N.J. 1996), *aff’d*, 118 F.3d 1575 (3d. Cir. 1997); *Md. Transit Admin. v. AMTRAK*, 372 F.Supp. 2d 478, footnote 2 (D.Md. 2005); *In re Rail Collision Near Chase, Md.*, 680 F. Supp. 728 (D.Md. 1987).

4. Pursuant to 28 U.S.C. § 1441 (a), “any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants, to the district court of the United States for this district and division embracing the place where such action is pending.” This removal is to the district court of the United States for the district and division embracing the place where the State Court Action is pending.

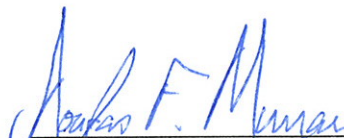
5. This Notice of Removal is being filed within 30 days after Defendant received a copy of Plaintiff’s Complaint and is, therefore, timely filed pursuant to 28 U.S.C. § 1446 (b).

¹ Amtrak was created by an Act of Congress, the Rail Passenger Service Act of 1970. *See* 49 U.S.C. s 24101 *et seq.*; *see also* National Railroad Passenger Corporation and Subsidiaries Consolidated Financial Statements at Note 2 (Sept. 30, 2005 & 2004). The United States government, through its Department of Transportation, owns all of Amtrak’s issued and outstanding preferred stock. *Id.* at Note 1. Thus, this Court has subject matter jurisdiction over the instant action.

6. Pursuant to 28 U.S.C. § 1446 (a), a true and legible copy of all process, pleadings, and orders served upon Defendant in the State Court Action as of this date are attached hereto as **Exhibit 1**.

7. A Notice of Filing of Notice of Removal, attaching a copy of this Notice of Removal, is being filed on this date with the Clerk of the Circuit Court for Prince George's County, Maryland and is being served on Plaintiff's counsel as required by 28 U.S.C. § 1446 (d). A copy (without attachments) of the Notice of Filing of Notice of Removal filed in the State Court Action is attached hereto as **Exhibit 2**.

WHEREFORE, Defendant National Railroad Passenger Corporation respectfully requests that this Notice of Removal be accepted and that the State Court Action be removed to the United States District Court for the District of Maryland (Southern Division).

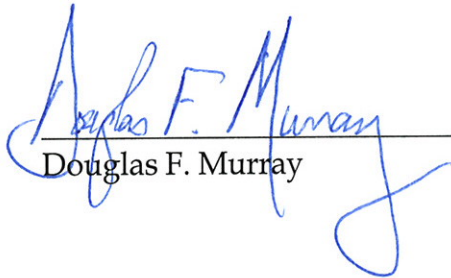


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Attorneys for Defendant,
National Railroad Passenger
Corporation

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 16th day of November, 2006, a copy of the foregoing Notice of Removal was mailed first class, postage prepaid, to:

Gary A. Stein, Esquire
401 North Washington Street
Suite 500
Rockville, Maryland 20850
Counsel for Plaintiff



Douglas F. Murray